

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re Patent Application of:

Paul Giampavolo, et al.

Serial No.: 10/676,412

Filed: September 30, 2003

For: PALLET GUARD

Confirmation No.: 8071

Date: December 23, 2008

Group Art Unit: 3637

Examiner: Jose V. Chen

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VIA EFS-WEB

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

**APPEAL BRIEF PURSUANT TO 37 C.F.R. §41.37**  
**IN RESPONSE TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Sir:

This Appeal Brief concerns the propriety of the Examiner's final rejection mailed March 3, 2008 in connection with the above-identified patent application. In support of the Notice of Appeal filed on June 3, 2008, this amended Appeal Brief is submitted in response to the Notification of Non-Compliant Appeal Brief mailed on November 25, 2008. It is respectfully submitted that this amended Appeal Brief complies with all of the requirements of 37 C.F.R. §41.37.

**REAL PARTY IN INTEREST:**

The real party in interest in the above-identified application is Paul Giampavolo, an individual.

**RELATED APPEALS AND INTERFERENCES:**

The applicants, assignee and the undersigned attorneys are not aware of any related appeals and interferences.

### **STATUS OF CLAIMS:**

Claims 1-23 and 25-35 are pending. Claims 5, 8, 18, 20, 22 and 33-35 have been withdrawn from consideration. Claim 14 is allowed. Claim 24 has been canceled. Claims 1-4, 6, 7, 9-12, 17, 19, 21, 23 and 25-32 have been rejected and claims 13, 15 and 16 have been objected to. Claims 1-4, 6, 7, 9-13, 15-17, 19, 21, 23 and 25-32 are involved in the instant appeal.

Claims 1-4, 6, 7, 9-17, 19, 21, 23-32 (Figs. 27-33 and 34-42) have been elected for examination by a Response to Election/Restriction Requirement filed on December 12, 2005.

Claims 7, 10, 12-16, 21, 25 and 31 have been amended by an Amendment filed on July 21, 2006 in response to a non-final Office Action dated February 24, 2006.

Claims 12 and 14 have been amended and claim 24 has been canceled by an Amendment filed on December 11, 2006 in response to a final Office Action dated October 10, 2006.

No amendments to the claims have been made by an Amendment filed on February 1, 2007 in response to a non-final Office Action dated January 8, 2007.

Claims 1, 7, 27 and 31 have been amended by an Amendment filed on May 16, 2007 in response to a final Office Action dated April 16, 2007.

No amendments to the claims have been made by a Request for Continued Examination filed on June 5, 2007 in response to an Advisory Action dated May 29, 2007. The Advisory Action indicated that the Amendment filed on May 16, 2007 was not entered because the proposed amendments to at least claim 1 include new limitations that would require further consideration.

Claims 1, 7, 10, 12, 21, 25, 27 and 31 have been amended by an Amendment filed on November 21, 2007 in response to a non-final Office Action dated July 23, 2007.

### **STATUS OF AMENDMENTS:**

A Response to Election/Restriction Requirement has been filed on December 12, 2005.

An Amendment in response to a non-final Office Action dated February 24, 2006 has been filed on July 21, 2006.

An Amendment in response to a final Office Action dated October 10, 2006 has been filed on December 11, 2006.

An Amendment in response to a non-final Office Action dated January 8, 2007 has been filed on February 1, 2007.

An Amendment in response to a final Office Action dated April 16, 2007 has been filed on May 16, 2007.

A Request for Continued Examination in response to an Advisory Action dated May 29, 2007 has been filed on June 5, 2007. The Advisory Action indicated that the Amendment filed on May 16, 2007 was not entered because the proposed amendments to at least claim 1 include new limitations that could require further consideration.

An Amendment in response to a non-final Office Action dated July 23, 2007 has been filed on November 21, 2007.

A Notice of Appeal in response to a final Office Action dated March 3, 2008 has been filed on June 3, 2008. No Amendment after the final Office Action was filed.

All amendments have been entered. All claim rejections and objections still remain.

#### **SUMMARY OF CLAIMED SUBJECT MATTER:**

##### **CLAIM 1**

In accordance with independent claim 1 a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, each section being couplable to an adjacent section, page 11, lines 13-17, and includes a bottom portion that is wider than a top portion making the section substantially wedge or triangular shaped in cross section to increase the stability (Fig. 11) page 11, lines 2-5, and page 12, lines 7-13. The guard sections each include a complementary portion of a joint (120, 122) for coupling, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines 13-21.

##### **CLAIM 2**

In accordance with claim 2, the complementary portion of the joint of claim 1 allows the guard sections to be coupled together to form a corner or in a straight line.

### **CLAIM 3**

In accordance with claim 3, the complementary sections of the joint of claim 2 allow the guard section to be arranged at any angle between and including 90° and a straight line.

### **CLAIM 4**

In accordance with claim 4, the complementary joint sections of claim 2 include projection on one guard section and a recess in another guard section.

### **CLAIM 6**

In accordance with claim 6, the guard of claim 1 includes signage on an outwardly facing surface of at least one section.

### **CLAIM 7**

In accordance with independent claim 7, a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, each section being couplable to an adjacent section, page 11, lines 13-17, to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shaped in cross section to increase the stability of the guard section (Fig. 11), page 11, lines 2-5, and page 12, lines 7-13, the guard sections each having a complementary portion of a joint (120, 122) for coupling the sections together, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines 13-21, wherein the modular guard sections each comprise at least two telescoping members (90, 92), page 10, lines 24-25, to allow adjustability of the length of a guard section.

### **CLAIM 9**

In accordance with claim 9, the joint of claim 1 comprises a fixed corner section providing a 90° corner and being removable to allow adjacent guard sections to connect with each other in an in-line configuration.

## **CLAIM 10**

In accordance with independent claim 10, a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section, page 11, lines 13-17, to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having a substantially wedge or triangular shape in cross section to increase the stability of the guard section, (Fig. 11), page 11, lines 2-5, and page 12, lines 7-13; the guard sections each having a complementary portion of a joint (120, 122) for coupling the sections together, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines 13-21; and wherein the modular guard sections have a rear face facing the pallet or merchandise grouping that is vertically oriented when the guard is arranged on a support surface, page 11, lines 24-26, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top (Fig. 11), page 11, lines 2-5.

## **CLAIM 11**

In accordance with claim 11, the guard of claim 7 comprises a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

## **CLAIM 12**

In accordance with independent claim 12, a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, each section being couplable to an adjacent section, page 11, lines 13-17, to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, and having a substantially wedge or triangular shape in cross section to increase the stability of the guard section (Fig. 11), page 11, lines 2-5 and page 12, lines 7-13, and a complementary portion of a joint (120, 122) for coupling the sections together, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines

13-21, wherein at least one of the guard sections has an outwardly facing surface having an area configured to receive a removable signage member (98) Fig. 12, page 11, line 24 to page 12, line 6.

#### **CLAIM 13**

In accordance with claim 13, the area of claim 12 comprises a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface.

#### **CLAIM 14**

Claim 14 is allowed.

#### **CLAIM 15**

In accordance with claim 15, the guard section of claim 13 has one or more tabs along an outer peripheral edge of the recessed surface that are configured to overly an outer peripheral edge of the signage member to hold the signage member in place.

#### **CLAIM 16**

In accordance with claim 16, the guard section of claim 13 has one or more channels along an outer peripheral edge of the recessed surface that are configured to allow an outer peripheral edge of the signage member to be slid or flexed into the channels.

#### **CLAIM 17**

In accordance with claim 17, the complementary portions of the joint of claim 12 allow the guard sections to be coupled together to form a corner or in a straight line.

#### **CLAIM 19**

In accordance with claim 19, the complementary joint sections of claim 12 comprise a projection on one guard section and a recess in another guard section.

## **CLAIM 21**

In accordance with independent claim 21, a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint (120, 122) for coupling the sections together, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines 13-21; wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member (98) Fig. 12, page 11, line 24 to page 12, line 6; and wherein the modular guard sections each comprise at least two telescoping members (90, 92), page 10, lines 24-25, to allow adjustability of the length of a guard section.

## **CLAIM 23**

In accordance with claim 23, the joint of claim 12 comprises a fixed corner section providing a 90° corner and is removable to allow adjacent guard sections to connect with each other in an in-line configuration.

## **CLAIM 25**

In accordance with independent claim 25, a guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, includes a plurality of modular guard sections (94) Fig. 11, page 10, line 23-page 11, line 6, having top and bottom portions disposed between front and back portions, each section being couplable to an adjacent section, page 11, lines 13-17, to surround at least a portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint (120, 122) for coupling the sections together, page 10, line 27 to page 11, line 2, page 11, lines 14-16, and page 11, lines 13-21; wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member (98) Fig. 12, page 11, line 24 to page 12, line 6; wherein each guard section has a substantially wedge or triangular shape in cross section to increase the stability of the pallet guard section (Fig. 11), page 11, lines 2-5, and page 12, lines 7-13; and wherein the modular guard sections have a rear face facing the pallet or

merchandise grouping that is vertically oriented when the guard is arranged on a support surface, page 11, lines 24-26, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top (Fig. 11), page 11, lines 2-5.

#### **CLAIM 26**

In accordance with claim 26, the guard of claim 21 comprises a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

#### **CLAIM 27**

In accordance with independent claim 27, a guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, includes at least one guard section (94) Fig. 11, page 10, line 23-page 11, line 6, to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, page 11, lines 13-17, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section (Fig. 11), page 12, lines 7-13 and page 11, lines 2-5.

#### **CLAIM 28**

In accordance with claim 28, each section of claim 27 is modular and couplable to an adjacent section.

#### **CLAIM 29**

In accordance with claim 29, each of the guard sections of claim 28 have a complementary portion of a joint for coupling the sections together.

#### **CLAIM 30**

In accordance with claim 30, at least one of the guard sections of claim 27 has an outwardly facing surface having an area for the receipt of a removable signage member.



### **CLAIM 31**

In accordance with independent claim 31, a guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, includes at least one guard section (94) Fig. 11, page 10, line 23-page 11, line 6, to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, page 11, lines 13-17, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section (Fig. 11), page 11, lines 2-5, page 12, lines 7-13; and wherein the guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section (90, 92), Fig. 11, page 10, lines 24-25.

### **CLAIM 32**

In accordance with claim 32, the complementary portions of the joint of claim 29 allow the guard sections to be coupled together to form a corner or in a straight line.

### **GROUND OF REJECTION TO BE REVIEWED ON APPEAL:**

The following grounds of rejection are presented for review:

#### **A. Rejection under S.C. §103(a)**

Claims 1-4, 6, 7, 9-12, 17, 19, 21, 23 and 25-32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Canadian Patent Application No. 2 375 246 to Giampavolo et al. (“Giampavolo”) in view of U.S. Patent No. 5,913,501 to Heuss et al. (“Heuss”).

### **ARGUMENT:**

#### **A. Rejection under 35 U.S.C. §103(a)**

Claims 1-4, 6, 7, 9-12, 17, 19, 21, 23 and 25-32 should not be rejected under 35 U.S.C. §103(a) as being unpatentable over Canadian Patent Application No. 2 375 246 to Giampavolo et al. (“Giampavolo”) in view of U.S. Patent No. 5,913,501 to Heuss et al. (“Heuss”).

First, Heuss does not teach or suggest a pallet guard. It requires that the items be stacked on it. Note the “flat floor bearing extensions” 25 and 26. (Col. 2, lines 49-50). It could thus not

be used as a pallet guard. To use it, one would have to unstack previously stacked items or lift up a pallet to place the Heuss device under it, making it clearly impractical for use as a pallet guard. The pallet guard of the invention merely needs to be placed in front of the pallet or goods.

Further, Heuss teaches a stacker base having fixed size corner and connector members. First off, it is important to note that the connector members are not couplable to each other. These members or sections are only couplable to the corner members. Further, both the corner and connector members include outwardly pointed lips or extensions 25, 26, 40, and 44 at the bottom of the rear walls and front 27, 28, 41, and 43. The stacker base is formed by positioning the four corner members and fastening the four connector members on top of the corner members.

Independent claims 1, 7, 10, 12, 21, and 25 recite “each section being couplable to an adjacent section.” This is illustrated in Figure 32, for example, where two sections 200 are shown to be connected by placing the wedge connector 216 of one section 200 into a wedge opening 214 of another connector 200 or in Fig. 11 where sections 120 and 122 are coupled together. Thus, Heuss does not teach, disclose, or suggest that recitation of claims 1, 7, 10, 12, 21, and 25.

Independent claims 1, 7, 10, 12, 21, 25, 27, and 31, further recite modular guard sections, “having top and bottom portions disposed between front and back portions.” In other words, contrary to Heuss, the connector members are couplable to each other and the bottom portion of the modular guard sections recited in the claims of the present application lies within and does not extend beyond the limits set by the front and back of the modular guard section.

Therefore, Heuss does not teach, disclose, or suggest “having top and bottom portions contained between front and back portions” and “the bottom portion being wider than the top portion” as recited in claims 1, 7, and 27; “a substantially wedge or triangular shape in cross section” as recited in claims 10, 12, 25, and 31; and that “the modular guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section” as recited in claim 21.

With regard to the Giampavolo, that reference when combined with Heuss, does not make the invention obvious. Since Heuss is a stacker device needing to be placed under the goods and, as discussed above is thus not a pallet guard, and cannot be used as one, it would not

be obvious to combine it with the Giampavolo. The Examiner does not disclose any motivation to combine stacker bases and pallet guards. Even if a motivation to combine is found, the combined references do not teach or suggest the claimed invention. The combination of Giampavolo with Heuss results in a device that could not be used as a pallet guard. Indeed, such a device would be impractical since it would require that the pallet be lifted in order to place the combination device. See “flat floor bearing extensions” 25 and 26. Col. 2, lines 49-50 of Heuss.

The Giampavolo reference also completely fails to teach or suggest “each section being couplable to an adjacent section.” For example, in Figure 3 of Giampavolo, sections 42 cannot be connected to each other without the intervening sections 44, 46, and 48. Furthermore, there is nothing in Giampavolo to suggest use of the wedge-shaped design of the present invention.

Thus, Giampavolo in view of Heuss does not render independent claims 1, 7, 10, 12, 21, 25, 27, and 31 obvious.

#### **CONCLUSION:**

Claims 2-4, 6, 9, 11, 13, 15-17, 19, 23, 26, 28-30 and 32 depend directly or indirectly from their respective independent claims 1, 7, 10, 12, 21, 25, 27 and 31 and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

For the reasons set forth above, it is respectfully submitted that all rejections to the claims in this application have been addressed to clearly define over the prior art. Therefore, the Examiner is respectfully requested to reconsider the application and allow the case to issue.

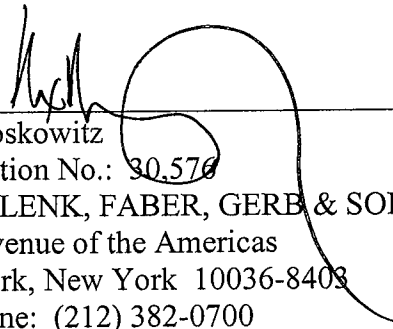
Applicants reserve the right to request an oral hearing upon receipt of the Examiner’s Answer.

Credit card payment for the required filing fee in the amount of \$255 (small entity) was previously submitted with the Appeal Brief on September 3, 2008 via EFS-WEB.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON December 23, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Max Moskowitz', is written over a horizontal line. The signature is stylized with a large, looping flourish that extends to the right.

Max Moskowitz

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## **CLAIMS APPENDIX**

1. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section; and the guard sections each having a complementary portion of a joint for coupling the sections together.

2. The guard of claim 1, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

3. The guard of claim 2, wherein the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

4. The guard of claim 2, wherein the complementary joint sections comprise a projection on one guard section and a recess in another guard section.

5. (withdrawn) The guard of claim 3, wherein the complementary joint sections comprise a pivotal connection.

6. The guard of claim 1, further comprising signage on an outwardly facing surface of at least one guard section.

7. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section, the guard sections each having a complementary portion of a joint for coupling the sections together,

wherein the modular guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

8. (withdrawn) The guard of claim 1, wherein the joint comprises a joint member coupled to adjacent guard sections, the joint comprising a live hinge.

9. The guard of claim 1, wherein the joint comprises a fixed corner section providing a 90° corner, the fixed corner section being removable to allow adjacent guard sections to connect with each other in an in-line configuration.

10. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having a substantially wedge or triangular shape in cross section to increase the stability of the guard section; the guard sections each having a complementary portion of a joint for coupling the sections together; and

wherein the modular guard sections have a rear face facing the pallet or merchandise grouping that is vertically oriented when the guard is arranged on a support surface, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top.

11. The guard of claim 7, further comprising a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

12. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, a substantially wedge or triangular shape in cross section to increase the stability of the guard section, and a complementary portion of a joint for coupling the sections together,

wherein at least one of the guard sections has an outwardly facing surface having an area configured to receive a removable signage member.

13. The guard of claim 12, wherein the area comprises a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface.

14. A guard for protecting sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each modular guard section being couplable to an adjacent modular guard section for surrounding at least a portion of a perimeter of a pallet or merchandise grouping, each modular guard section having a complementary portion of a joint for coupling the sections together,

wherein at least one of the guard sections has an outwardly facing surface having an area configured to receive a removable signage member, the area including a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface,

the signage member having one or more tabs along an outer peripheral edge thereof and the recessed surface has one or more slots along an outer peripheral edge thereof and wherein the slots of the recessed surface receive the tabs of the signage member to hold the signage member in position.



15. The guard of claim 13, wherein the guard section has one or more tabs along an outer peripheral edge of the recessed surface that are configured to overly an outer peripheral edge of the signage member to hold the signage member in place.

16. The guard of claim 13, wherein the guard section has one or more channels along an outer peripheral edge of the recessed surface that are configured to allow an outer peripheral edge of the signage member to be slid or flexed into the channels.

17. The guard of claim 12, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

18. (withdrawn) The guard of claim 12, wherein the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

19. The guard of claim 12, wherein the complementary joint sections comprise a projection on one guard section and a recess in another guard section.

20. (withdrawn) The guard of claim 18, wherein the complementary joint sections comprise a pivotal connection.

21. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint for coupling the sections together;

wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member; and

wherein the modular guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

22. (withdrawn) The guard of claim 12, wherein the joint comprises a joint member coupled to adjacent guard sections, the joint comprising a live hinge.

23. The guard of claim 12, wherein the joint comprises a fixed corner section providing a 90° corner, the fixed corner section being removable to allow adjacent guard sections to connect with each other in an in-line configuration.

Claim 24 (canceled).

25. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections having top and bottom portions disposed between front and back portions, each section being couplable to an adjacent section to surround at least a

portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint for coupling the sections together;

wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member;

wherein each guard section has a substantially wedge or triangular shape in cross section to increase the stability of the pallet guard section; and

wherein the modular guard sections have a rear face facing the pallet or merchandise grouping that is vertically oriented when the guard is arranged on a support surface, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top.

26. The guard of claim 21, further comprising a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

27. A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section.

28. The guard of claim 27, wherein each section is modular and couplable to an adjacent section.

29. The guard of claim 28, wherein the guard sections each having a complementary portion of a joint for coupling the sections together.

30. The guard of claim 27, further wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member.

31. A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section; and

wherein the guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

32. The guard of claim 29, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

33. (withdrawn) The guard of claim 32, wherein the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

34. (withdrawn) The guard of claim 27, wherein the section is attachable to a merchandise rack or stanchion of a merchandise rack.

35. (withdrawn) A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or face sides of a pallet or merchandise grouping and wherein the guard section has an attachment member for attaching the guard section to a merchandise rack or stanchion of a merchandise rack.

## **EVIDENCE APPENDIX**

None.

## **RELATED PROCEEDINGS APPENDIX**

None.